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****E-filed 9/9/05****

Attorneys for Plaintiff DIRECTV, INC.

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION**

DIRECTV, INC., a California corporation,

 Plaintiff,

 vs.

 VIN VU,

 Defendant.

CASE NO. CV-05-00406 JF

Hon. Jeremy Fogel

**[PROPOSED] DEFAULT JUDGMENT
 AGAINST DEFENDANT VIN VU**

Date: September 9, 2005
 Time: 9:00 a.m.
 Courtroom: 3, 5th Floor

IT APPEARING from the records in the above-entitled action that the default of Defendant VIN VU ("Defendant") was entered on May 6, 2005 for failure to respond or to otherwise defend the Complaint for damages;

IT FURTHER APPEARING from the Motion for Default Judgment Against Defendant filed herein that Plaintiff DIRECTV, Inc. ("DIRECTV")'s claim for damages is for a sum that can by computation be made certain;

IT FURTHER APPEARING that there is no just reason for delay in entering final judgment in this matter as to Defendant and that final judgment shall be entered against said Defendant;

///

1 IT FURTHER APPEARING from the Declaration of counsel for DIRECTV dated
2 July 13, 2005, that Defendant is not an infant or incompetent person;

3 IT FURTHER APPEARING from the Declaration of counsel for DIRECTV dated
4 July 13, 2005, that Defendant is not in military service or otherwise exempted under the
5 Servicemembers' Civil Relief Act;

6 IT FURTHER APPEARING that DIRECTV alleges, and Defendant has admitted through
7 his default, that Defendant violated the Electronic Communications Privacy Act, 18 U.S.C.
8 § 2510, *et seq.*;

9 IT FURTHER APPEARING that, although 18 U.S.C. § 2520 provides for statutory
10 damages for violation of the Electronic Communications Privacy Act of whichever is the greater
11 of \$100 per day of violation or \$10,000, and although DIRECTV has submitted that Defendant
12 violated the statute on 1,002 days (the date of his purchase of the illegal device, August 2, 2001,
13 through April 30, 2004, the date after which it appears the subject device could not have been
14 effective to modify DIRECTV Access Cards), DIRECTV only requested in its Complaint
15 statutory damages of \$10,000 per illegal device purchased and used by Defendant;

16 IT FURTHER APPEARING that DIRECTV, as the prevailing party in this action, is
17 entitled to reasonable attorneys' fees and costs pursuant to 18 U.S.C. § 2520(b)(3) incurred in
18 prosecuting this action against Defendant and DIRECTV has submitted evidence of the amount of
19 those fees incurred;

20 NOW THEREFORE, on request of counsel for DIRECTV, Judgment shall be entered as
21 follows:

22 1. Pursuant to 18 U.S.C. § 2520, as against Defendant VIN VU, and in favor of
23 Plaintiff DIRECTV, Inc., the sum of \$10,000 (one (1) device purchased and used by Defendant x
24 \$10,000), plus post-judgment interest thereon at the legal rate pursuant to 28 U.S.C. § 1961 from
25 the date of entry of this Judgment;

26 2. An award of attorneys' fees in the amount of \$3,035.60; and

27 ///

28 ///

1 3. Costs pursuant to Fed. R. Civ. P. 54, subject to the filing of a Bill of Costs in
2 compliance with the Local Rules of this Court.

3
4 Dated: 9/9/05

/s/electronic signature authorized

Honorable Jeremy Fogel
United States District Court
Northern District of California

PROOF OF SERVICE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is at BUCHALTER, NEMER, FIELDS & YOUNGER, A Professional Corporation, 18400 Von Karman Avenue, Suite 800, Irvine, California 92612-0514.

On July 14, 2005, I served the foregoing document described as: **[PROPOSED] DEFAULT JUDGMENT AGAINST DEFENDANT VIN VU** on all other parties and/or their attorney(s) of record to this action by placing a true copy thereof in a sealed envelope as follows:

*****SEE ATTACHED LIST*****

[X] BY OVERNIGHT DELIVERY I placed the Federal Express/Overnite Express package for overnight delivery in a box or location regularly maintained by Federal Express/Overnite Express at my office, or I delivered the package to an authorized courier or driver authorized by Federal Express/Overnite Express to receive documents. The package was placed in a sealed envelope or package designated by Federal Express/Overnite Express with delivery fees paid or provided for, addressed to the person(s) on whom it is to be served at the address(es) shown above, as last given by that person on any document filed in the cause; otherwise at that party's place of residence.

[X] I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on July 14, 2005, at Irvine, California.

Tammy Martin

/s/Tammy Martin

(Signature)

SERVICE LIST

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